

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

IN RE:)	
)	
JOENATHAN J. LAW,)	CHAPTER 13 BANKRUPTCY
)	CASE NO. 94-41595
)	
DEBTOR)	

ORDER

_____On January 18, 1995, the Debtor filed a Motion to Reinstate Chapter 13 Case. The case had been dismissed on January 12, 1995 based on the fact that the Debtor had filed a Chapter 13 plan without having filed income tax returns for the five year period preceding the filing of the case. I found that the Debtor had been advised of the necessity to file the returns at the Meeting of Creditors. As of January 12, 1995, the date of the confirmation hearing, the Debtor had not filed the tax returns. I allowed a period of an additional day following the confirmation hearing to permit the Debtor to furnish copies of the filed tax returns to me. No such copies were furnished.

The Debtor's motion specifies that the Debtor has now filed the tax returns. Copies of the tax returns were included as an attachment to the motion.

I had held in dismissing the case that the plan was filed

in bad faith. This is because the Debtor came to this Court proposing to pay one of his most important creditors when that creditor would have no way of knowing how much the Debtor owed because of the failure of the Debtor to file tax returns. The plan was not feasible as filed. The problem might have been remedied by the prompt filing of tax returns at the insistence of the Chapter 13 trustee. No such remedy was accomplished. It was not until the case was dismissed that the Debtor actually solved the problem. This is not the stuff of good faith.

I understand that some Debtors have difficulty with the complexities of taxation and the filing of tax returns. Further, I recognize that there is expense associated with the engaging of professionals to perform these complex tasks. I recognize further that these requirements may cause Chapter 13 relief to be more difficult for some persons to obtain. I have been attentive in this case to indications that this Debtor was acting in good faith by taking some steps at a reasonably early stage in the case to try to solve the problem caused by the failure to file tax returns. There is at least a four month period between the confirmation hearing and the filing of the case. That is an ample period of time for a debtor who is acting in good faith to take the steps necessary to have required tax returns filed with the appropriate taxing authorities. If it cannot be shown at the confirmation hearing that the returns have been filed, or that some insurmountable

obstacle has prevented the filing of the returns, then the Court must conclude that the Debtor's plan, not filed in good faith, continues to lack the requisite good faith. Without good faith a plan cannot be confirmed. If a plan cannot be confirmed, the case must be dismissed.

This case was dismissed on that basis. The motion to reinstate the case will be considered as a motion to reconsider the Court's order dismissing the case as well as to consider reinstating the case. In both respects, the motion is DENIED.

SO ORDERED this _____ day of January, 1995.

JAMES D. WALKER, JR., Judge
United States Bankruptcy Court

CERTIFICATE OF SERVICE

I, Cheryl L. Spilman, certify that a copy of the attached
and foregoing was mailed to the following:

Charles W. Bell
Attorney At Law
P. O. Box 9702
Savannah, Georgia 31412

Sylvia Brown
Chapter 13 Trustee
P. O. Box 10556
Savannah, Georgia 31412

This _____ day of January, 1995.

Cheryl L. Spilman
Deputy Clerk
United States Bankruptcy Court